

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE**  
Council of the County of Maui

**MINUTES**

**September 9, 2014**

**Council Chamber, 8<sup>th</sup> Floor**

**CONVENE:** 9:01 a.m.

**PRESENT:** Councilmember G. Riki Hokama, Chair  
Councilmember Donald G. Couch, Jr., Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Robert Carroll, Member (out 9:39 a.m., in 10:00 a.m.)  
Councilmember Elle Cochran, Member  
Councilmember Stacy Crivello, Member  
Councilmember Don S. Guzman, Member  
Councilmember Michael P. Victorino, Member (out 9:47 a.m., in 9:49 a.m.)  
Councilmember Mike White, Member (in 9:10 a.m.)

**STAFF:** Carla Nakata, Legislative Attorney  
Yvette Bouthillier, Substituting Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

**ADMIN.:** David Goode, Director, Department of Public Works (Item PIA-54) (Item PIA-1(42))  
John Buck, Executive Assistant, Office of the Mayor (Item PIA-2(35))  
Mark R. Walker, Deputy Director of Finance, Department of Finance (Item PIA-77)  
Scott K. Teruya, Real Property Tax Administrator, Department of Finance (Item PIA-77)  
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
(Item PIA-54)  
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel  
(Item PIA-2(35)) (Item PIA-77) (Item PIA-4(1))  
Moana M. Lutey, Deputy Corporation Counsel, Department of the Corporation Counsel  
(Item PIA-1(42))

**OTHERS:** **Item 54:** Randy Endo, Esq., Vice President, Development, A&B Properties, Inc.  
  
Others (5)

**PRESS:** *Akaku--Maui County Community Television, Inc.*

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CHAIR HOKAMA: Policy Committee shall come to order. This is our meeting of the 9<sup>th</sup> of September, 2014. Present this morning is our Vice-Chairman, Mr. Couch.

VICE-CHAIR COUCH: Good morning Mr. Chair.

CHAIR HOKAMA: Good morning. And we have Committee members Mr. Carroll...

COUNCILMEMBER CARROLL: Good morning Chair.

CHAIR HOKAMA: Good morning. Ms. Crivello...

COUNCILMEMBER CRIVELLO: Good morning Chair.

CHAIR HOKAMA: Good morning. Ms. Cochran...

COUNCILMEMBER COCHRAN: Aloha Chair.

CHAIR HOKAMA: Chair Baisa.

CHAIR BAISA: Good morning Chair.

CHAIR HOKAMA: Good morning. Mr. Guzman...

COUNCILMEMBER GUZMAN: Good morning Chair.

CHAIR HOKAMA: And Mr. Victorino.

COUNCILMEMBER VICTORINO: Aloha Chair.

CHAIR HOKAMA: Good morning. Mr. White is excused at this time. Let us all please turn off our noise-making devices, please, Members. Thank you. I will ask our Staff if there's anyone who wish to provide testimony this morning before the Committee in the Chambers?

UNIDENTIFIED SPEAKER: ...*(inaudible)*...

CHAIR HOKAMA: None? We have none? We'll ask our Hana Office if there's anyone wishing to provide testimony on today's agenda? Hana Office, Ms. Lono, anyone there?

MS. LONO: Good morning. This is Dawn Lono at the Hana Office and I have no one waiting to testify.

CHAIR HOKAMA: Thank you very much. Lanai, Ms. Fernandez, anyone wishing to provide testimony?

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MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

CHAIR HOKAMA: Thank you. Ms. Alcon, Molokai, anyone wishing to provide testimony, please?

MS. ALCON: Good morning Chair. This is Ella Alcon on Molokai and there is no one here waiting to testify.

CHAIR HOKAMA: Okay, thank you. It seems we have a boring agenda today, Members ...*(laughter)*... which is to provide testimony, so with no objections, we shall close testimony for today's meeting.

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Thank you, Members, so ordered.

**ITEM PIA-54: HANSEN ROAD REALIGNMENT (PUUNENE) (CC 12-123)**

CHAIR HOKAMA: May I please direct you to Item 54 under HANSEN ROAD REALIGNMENT (PUUNENE) as our heading. Members, this is a kinda long path to reach this place, so we have Mr. Hopper from Corporation Counsel to assist us with some historical backgrounds, Members, and how we arrived to today's situation, which is hopefully final action on the Hansen Road request. So Mr. Hopper, if you would, please.

MR. HOPPER: Thank you, Mr. Chair. The, my office transmitted a revised resolution to reflect several things, basically minor points, essentially, that the County's portion had been subdivided out. And there's, there's no, there's nothing that still needs to be done before the land exchange can be finalized except for passing this resolution. Essentially, by way of reminder, I think David Goode's here. He can maybe give some background as well, but you had a resolution before you with this matter earlier, I believe, in maybe a year ago, and that was essentially to have a realigned road that the County had run through A&B's property, resolved through an exchange with A&B with certain parcels that A&B owned and certain parcels that the County owned. And pursuant to 3.44.070 Maui County Code, a land exchange can be authorized there with basically published notice, which was done, and the parcels can be exchanged without any other consideration in addition to that, and that was what the resolution was to do. There's, I can give you as little or as much history on this as possible. Basically it goes back to the 1950s when the County Board of Supervisors accepted this property by resolution. Back then the law stated that the conveyance to the County would be by deed, naming the Territory of Hawaii as grantee even though the County Board of Supervisors back then was to accept the property which is what happened. Because of that, there was an issue with Title Guaranty in their title report. It was difficult for them to give the County of Maui clear title, so the County did end up having to go to court and get an order stating that the County of Maui was the owner of the property. We did that, the order final judgment was included along with your resolution. The final judgment was

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dated August 18, 2014, and so right now, the County can get clear title insurance for this parcel and so can actually finalize the conveyance to A&B. So right now, I think, I don't know if David Goode has any additional comments on the history of this project, but the delay on this was due to the issue with Title Guaranty and having to clear up the title insurance policy dealing with Hansen Road which had been acquired by the County back in the '50s where the procedure for acquiring roads was a bit different than it is today.

CHAIR HOKAMA: Okay, thank you, Mr. Hopper. Director Goode, any comments you would like to share with the Committee regarding this request, please?

MR. GOODE: Okay. Well, thank you, Chair. Good morning, Members. It's actually good to be here to finally finish this, and I want to thank our Corp. Counsel and Mike, in particular for taking this all the way through and unfortunately, we had to go to court. We basically had to sue TG and the State. And State agreed with us, and TG, I guess, reluctantly agreed with us and didn't fight us too hard. We got the judgment. It's an important judgment, I think, because it is also sets the tone for all the other types of acquisitions that the Board of Supervisory did during that time period around the '50s where their certain laws were in effect. It will affect actually some roadways on Lanai and make it clear that we do in fact own them. So sometimes it's a necessary process to go to court and get what feels right and we did that and we look forward to the exchange. And we also look forward to the reconstruction of Hansen Road coming up soon.

CHAIR HOKAMA: Okay, thank you very much. We also requested the presence of someone from Alexander & Baldwin and we have Mr. Endo present this morning. So, Mr. Endo, you wanna come and give any comments on this request whether or not there's any concerns from your company's standpoint, or if you need...

UNIDENTIFIED SPEAKER: ...*(inaudible)*...

CHAIR HOKAMA: Yeah, please come, Mr. Endo. We'll have it on the record.

MR. ENDO: Good morning, Council members. Randy Endo, A&B Properties.

CHAIR HOKAMA: Thank you for being here this morning, Mr. Endo. I'm sure your company is, like the County, happy to get this resolved finally. Is there anything you wanna add or say on behalf of your company regarding this request?

MR. ENDO: No, I mean, it's definitely a benefit to finish the land exchange since the road is already opened and the public is actually driving on the land that's still owned by A & B. So it's good for liability and clarifying everything to have the land swap completed. So we're very excited about that and very thankful for the cooperation of the Department of Public Works in working together to get this finished up.

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CHAIR HOKAMA: Okay, thank you. Members, since we have Mr. Endo present, is there any questions for Mr. Endo on this request before us this morning? The Chair will also recognize Mr. White's presence. Thank you for being here.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR HOKAMA: We currently have Hansen Road before the Committee, Mr. White. Mr. Hopper gave us a quick summary of the history, and Director Goode just gave us some quick follow-ups and all parties want this to be completed ASAP. So any questions, sir?

COUNCILMEMBER WHITE: No questions. I think we're all ready to move forward.

CHAIR HOKAMA: Okay. Anyone has a question for Mr. Endo? If not, Mr. Endo, we appreciate you making the time to be here and we appreciate your company's assistance in this matter.

MR. ENDO: Thank you.

CHAIR HOKAMA: Thank you. Anything else, Director Goode? Mr. Hopper?

MR. HOPPER: Mr. Chair, I think you're aware the reso, the revised resolution we transmitted, there was an oversight. We did not include the Exhibits, which did not change from the first resolution so I think there would need to be a motion to attach those Exhibits. They're in the, they're in the record, they're in the documents, but they just weren't attached.

CHAIR HOKAMA: Correct, correct. Thank you for that comment, Mr. Hopper. The Committee will need to make appropriate adjustments with this request. So Members, if I can, your latest and most recent communication is dated August 27 from Mr. Hopper with the revised proposed resolution. Please look at the communication just prior to that dated August 25. In August 25 you'll see that Mr. Hopper has included in that submittal the appropriate attachments: Exhibit "1", Exhibit "A" and Exhibit "B." And so what the Chair is intending to do, Members, is utilize the most current communication, August 27, as the vehicle to recommend to Council adoption of this request and then a motion to amend that will add the Exhibits to the latest revised resolution. Is there any questions on the Chair's intent?

COUNCIL MEMBERS: No questions.

CHAIR HOKAMA: Okay. Mr. Hopper any questions? I think that would take care of our need regarding the attachments for your consideration?

MR. HOPPER: That's correct Mr. Chair.

CHAIR HOKAMA: Yes, Mr. Guzman?

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COUNCILMEMBER GUZMAN: Thank you, Chair. I just have a maybe a simple question on the...procedurally wise, is it standard that we waive the appraisal of both parcels?

CHAIR HOKAMA: I'll let Mr. Hopper answer that one.

MR. HOPPER: Mr. Chair, I think that the Department of Public Works, the thinking was the parcels are in essentially the same area and the same size, so the request was to raise the appraisal, or to waive the appraisal because it was an exchange of land of the same size in the exact same area.

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR HOKAMA: Yeah, thank you. For the Council, this is a, well for the Board and the Council, this is a long-running issue and for all parties, liability, responsibility and current public use is the key factors in this matter, Mr. Guzman. Any other questions, Members? If not, the Chair will entertain a motion to recommend to Council passage of a resolution entitled "AUTHORIZING THE EXCHANGE OF REAL PROPERTY SITUATED AT HANSEN ROAD, PUUNENE, MAUI, HAWAII, PURSUANT TO SECTION 3.44.060, MAUI COUNTY CODE" as attached to communication dated August 27, 2014. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to adopt the resolution as stated before, and Mr. Chair, do you want to file that communication as well or...?

CHAIR HOKAMA: Yeah, we'll file the communications.

VICE-CHAIR COUCH: Okay, and including the filing of the communication, County Communication...

CHAIR HOKAMA: 12-15..., -123.

VICE-CHAIR COUCH: Yep.

CHAIR HOKAMA: 12-153.

VICE-CHAIR COUCH: Thank you.

COUNCILMEMBER BAISA: Mr. Chair, I second the motion.

MS. NAKATA: Excuse me, Mr. Chair.

CHAIR HOKAMA: Yes.

MS. NAKATA: That would be filing of Policy Committee Report, as well 12-153?

CHAIR HOKAMA: Correct.



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**CHAIR HOKAMA:** We're back to the main motion as amended. Any discussion or questions?  
Mr. Victorino.

**COUNCILMEMBER VICTORINO:** Not so much a question but a comment, and I want to thank Mr. Goode and Mr. Hopper for getting this finally to reality, 'cause I know it's been many years we've sat here and heard about this and when it was gonna get done. And I think this is also very important because I think it will take a strong amount of traffic off of Hookele right now that's using that to get to Mokulele from Upcountry. I watch that in the morning when I sign wave, and I watch a whole mess of people heading in that direction, and a lot of them heading down towards Kihei. So hopefully this will give another alternate route for our Upcountry residents who are heading to Kihei and Makena and Wailea to work or whatever they may be doing, Mr. Chair. I think this is really something that's long, long overdue, and so thank you very much, and I look forward to seeing the day when that road is realigned and you can traverse from Hana Highway over to Mokulele and not have to hit every crack in the road as you drive along. So thank you, Mr. Chair.

**CHAIR HOKAMA:** Okay, thank you. Any further discussion, Members? Having none, all in favor of the motion, please say "aye."

**COUNCIL MEMBERS:** Aye.

**CHAIR HOKAMA:** Oppose, say "no". Motion passes with nine ayes. Thank you very much.

**VOTE:**        **AYES:**        **Chair Hokama, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Crivello, Guzman, Victorino, and White.**

**NOES:**        **None.**

**EXC.:**        **None.**

**ABSENT:**     **None.**

**ABSTAIN:**   **None.**

**MOTION CARRIED**

**ACTION:**     **ADOPTION of revised resolution and FILING of Policy Committee Report 12-153 and County Communication 12-123 by C.R.**

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**ITEM PIA-2(35): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS  
(COUNCIL ON AGING) (CC 13-42)**

CHAIR HOKAMA: Thank you Director, that was an easy one today ...*(laughter)*... Thank you Mr. Hopper. We'll bring Mr. Ueoka and to assist the Committee... May I please direct you to Item 2(35), Members. This is under the heading of NOMINATIONS TO BOARDS, COMMITTEES AND COMMISSIONS specifically regarding the Council on Aging. Okay now, this is a unique one, Members. So let me just say that we received a request from Mayor, on July 8, 2014, requesting the removal from a...this is the Council on Aging that the Council adopted Resolution 14-80, supporting the Mayor's request of removing the individual from the Council. The Charter, according to your Chair's understanding, Section 13-2(17) provides that a vacancy on a board due to death, resignation, or removal shall be filled as follows: "Within 30 days of the occurrence of vacancy the Mayor shall submit to the Council the name of the nominee to fill that vacancy." On behalf of the Committee, I requested guidance from Corporation Counsel as to how the phrase "occurrence of a vacancy" is interpreted in this context and whether the Mayor's nomination was appropriate and timely. The Corporation Counsel Department opined, "The date when the clock starts should be the date when the Mayor is advised or informed of a vacancy, or the date the Mayor received a verified or certified copy of Resolution No. 14-80, but the date the subject Resolution was adopted by the Council." The Chair has distributed for your information, Members, today a correspondence dated July 19, July 9, excuse me, July 9, 2014, from the County Clerk to the Mayor, reflecting the Mayor received notification of removal on July 9, 2014. Therefore the 30-day period for the Mayor to nominate someone to fill this vacancy expired on August 8, 2014, and his current nomination is untimely. Your Chair has had discussions with Committee staff and Corporation Counsel, and we have been informed that a timely nomination may be filed in the Council within 60 days from the date the Mayor's nomination should have been made, August 8, may proceed to nominate and appoint an individual to fill the vacancy. Okay, and so I would ask currently Mr. Ueoka if he has any comments regarding the appropriate means of disposing of an untimely nomination and any comments on time frame for this Committee to recommend to the Council for its own actions.

MR. UEOKA: Thank you, Mr. Chair. My understanding is you would just file the communication because it is untimely and that the Council has 60 days to nominate and approve the appointment of an individual to fill the vacancy. And I would assume the 60 days would start running from the date the Mayor was supposed to submit the name and from there the 60 days would start.

CHAIR HOKAMA: Yeah, got it. Okay. So more or less, Members, we have half the time left if we move forward on the current direction that I'm gonna ask you to consider. Mr. Buck, any comments, sir? We appreciate your presence here this morning, so thank you for being here first and any comments you'd like to share?

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MR. BUCK: Thank you, Mr. Chair. The position, well the position of the Mayor's office, is that August 8 was the deadline, but that was also the same day that Hurricane Iselle and all County offices were closed at that day so we were unable...

CHAIR HOKAMA: Yeah, we understand the difficulties, Mr. Buck.

MR. BUCK: So we did file the following Monday.

CHAIR HOKAMA: Okay.

MR. BUCK: But we feel that we did make the deadline.

CHAIR HOKAMA: Okay. Thank you for your, those comments. Yeah, it was a difficult time, Members, for many, many people including the County. But we work according to deadlines. So, Members, any questions or comments for your Chair at this time, or for either Mr. Buck or Mr. Ueoka? Mr. Victorino.

COUNCILMEMBER VICTORINO: And I understand we all have deadlines, Mr. Chair, you know, and we all have to meet those deadlines. And that's not only here locally, but state and nationally, we have deadlines for filings and if you don't, you know, you lose. But my question to you, Mr. Chair, and those were very unusual circumstances. Starting from Wednesday, Thursday, people were, and including our County government, was in the process of preparing for a possible major hurricane, which as we saw what it did the damage on the Big Island. Luckily, we were spared much of that. However, and it's not to just do with this, it is unusual circumstances, on an act of God, something beyond our control. It's not like they forgot, they were late intentionally. Yeah, maybe they could have done the day before, but I think the day before they were worried about the hurricane and probably the two, three days out. I know I was in Florida for a conference, and that was national news in Florida. And the two hurricanes heading to Hawaii and you know, and what the potential was and I was on my return back on Thursday. I could only get to LA and I could not come home. They had shut down all the airports already on Thursday. So you know, Mr. Chair, I just, I'm asking now, and it's, I have no stake in this, but I just believe in this circumstances, which are very unusual circumstances that none of us could predict and could predict in the future, is it possible to look at it in a sense that it was late, no one's arguing that, no one's denying that, but there were unusual circumstances that doesn't, don't happen, and hopefully will never happen again, but you know that's another story. But I really believe that this is one of those situations that I would be compelled to look at the circumstances not just the deadline. And that's just me, Mr. Chair, and, you know, and how you feel is, and I know you talked to Staff, you talked to Corporation Counsel. No one's denying that we have the right, but I'm also saying it's just one of those times that, that in my mind common sense would play a bigger part of it, you know, that hey, we don't have hurricanes come by, especially of a destructive nature like that, and come towards our islands, and you know, putting this population both County of Maui and the whole State really, but the two southern islands were really the ones that would be most impacted, and as it turns out, we were mostly impacted by this devastating hurricane. But I ask you that question, Mr. Chair, and again, I

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\_\_\_ argue about the deadlines. It happened, but I think that is something in my mind I would like to consider as a possible means of saying hey, this happened, we should allow this to go on, and that's my question to you, Mr. Chair.

CHAIR HOKAMA: Okay. I would say our forefathers, foremothers, to be correct ...*(laughter)*... I guess that is why they've had additional procedures should the first procedure not make it for whatever reason. So we had a natural disaster issue coming up. But, Members, the deadline did expire and the Charter allows then the next step to ensure the government's continued operations and ability to respond. So I would say I understand Mr. Buck's comments. I understand Mayor was very busy. I would say on behalf, from the Council side though, this Committee, and it was my intent to also consider the Mayor's nominee as our nominee for consideration. I would say that is a courtesy this Committee can extend to the Mayor. Just continue to consider his nominee as a potential name to come from this Committee to Council and I, I need to do that.

COUNCILMEMBER VICTORINO: Mr. Chair, then if you're gonna do that then I withdraw my objections. Thank you, Mr. Chair.

CHAIR HOKAMA: Okay. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair, and I agree with you that we have to deal with procedures, and if there are extenuating circumstances. we have to look at them one at a time. And I am very supportive of you doing it by procedure going through the deadline. Yeah, they could have done it a lot sooner than the day before. That being said, I know Mr. Wickman. I know he would be a very good person to be on this commission. He does, puts a lot into the community from, in south Maui and I would have requested him be nominated anyway so I appreciate you saying that as well.

CHAIR HOKAMA: And again the Chair is very aware of the situation, the circumstances, and that's why I'm happy to tell you today his name will be considered for the Committee on who we're going to...and as I say we have 50 percent left of the time allowed us to make that decision. And we'll repost after we get through this procedural situation --

VICE-CHAIR COUCH: Okay.

CHAIR HOKAMA: --to take care of the Council on Aging's vacancy.

VICE-CHAIR COUCH: Alright, thank you, Chair.

CHAIR HOKAMA: Okay. Yes, Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair, and I appreciate your heading in the direction you're, you seem to be going to actually have Mr. Wickman nominated. I think the Mayor has come up with a very good nominee and he's obviously very involved in volunteer activities in a variety of

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ways and appears to me to be a very qualified candidate for this commission. So I appreciate your moving this along in the manner you are.

CHAIR HOKAMA: Okay, thank you. Any other questions, Members? Okay, the Chair's gonna recommend filing of the correspondence at this time, Members. Mr. Couch.

VICE-CHAIR COUCH: Mr. Chair, I move to file County Communication No.... --

CHAIR HOKAMA: Dated August 11, 2014.

VICE-CHAIR COUCH: --dated August 11, 2014. There isn't, really isn't a communication number.

COUNCILMEMBER BAISA: Mr. Chair, I second the motion.

CHAIR HOKAMA: Thank you. I have a motion made by Mr. Couch, seconded by Ms. Baisa. Members, any questions or further discussion on the motion before you? Having none, all in favor of the motion, please say "aye."

COUNCILMEMBERS: Aye.

CHAIR HOKAMA: Oppose, say "no". Motion passes with nine ayes. Thank you very much. Thank you, Mr. Buck.

**VOTE:       AYES:       Chair Hokama, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Crivello, Guzman, Victorino, and White.**

**NOES:       None.**

**EXC.:       None.**

**ABSENT:    None.**

**ABSTAIN:   None.**

**MOTION CARRIED**

**ACTION:     FILING of correspondence dated August 11, 2014, from the Mayor, by C.R.**

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**ITEM PIA-77 COMPOSITION OF THE REAL PROPERTY TAX REVIEW BOARD**  
(CC 14-164)

CHAIR HOKAMA: Let me direct you please to Policy Item 77 under the heading COMPOSITION OF THE REAL PROPERTY TAX REVIEW BOARD. We are in receipt of Communication 14-161 [*sic*] from myself, your Chairman, providing a bill for an ordinance that not more than two real estate agents or brokers shall serve as members on the Real Property Tax Review Board at any one time. Currently they have a makeup of five members. We also have a correspondence dated September 2, 2014, from Corporation Counsel, with a revised proposed bill for an ordinance. This morning we have representatives from the Department of Finance, and so I'll ask our Deputy if he has any comments he'd like to share at this time with us, please?

MR. WALKER: Good morning Chair, Committee members. I think you're in receipt of our response to your request dated September 4<sup>th</sup>. And I think really our only comment on the proposed bill was that if you're trying to eliminate one particular employment sector from overburdening the board, that rather than say "real estate agents or brokers" just, you know, say, you know, "members of the same or similar employment sector". I think was, it's kinda more wordsmithing than anything else as opposed to calling out and saying no, not any more than "x" number of "brokers or realtors," just saying "the same employment sector." I don't know if Mr. Teruya has any additional comments.

CHAIR HOKAMA: Before I ask, we ask Mr. Teruya's comments, we're double-checking, Mr. Deputy, we don't I think have received that, the correspondence that you've been referring to so I don't have it. I don't think the Members have it so why don't take a short recess and we'll get this squared away. . . .(*gavel*). . .

**RECESS: 9:32 a.m.**

**RECONVENE: 9:36 a.m.**

CHAIR HOKAMA: Okay, Members, let us reconvene. We are on Item 77, COMPOSITION OF THE REAL PROPERTY TAX REVIEW BOARD. We are in receipt now, Members, of a communication dated September 4<sup>th</sup>, 2014, from Mr. Agsalog, Director of Finance. Mr. Ueoka, any comments on this suggestion to be replaced with this new, more broader phrase "members of the same or similar employment sector"?

MR. UEOKA: My only comment on that Chair would be with. . .who would be the determine, who would determine the similar employment sector? You might just be inviting further questions. That's the only comment I would make on that, but other than that I have no issue with the language.

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CHAIR HOKAMA: Uh-huh. Okay. Well, I'm sorry, Mr. Teruya, any comments from your Division? We had the Deputy Director's, anything more specific from your operational Division?

MR. TERUYA: Thank you Chairman and good morning, Members. My only comment would be...I would... I think the broad language is good, also even so far as company. I think a lot of times if you use, for example, if you're coming, more than three members are coming from any one company and just so happens that the company's appeal is before you, it would kinda limit the board in ever adjudicating the case. So everybody would be abstaining, so I don't know the particular language per se, but that is just my comment in that when where's too many people in one type of organization or type of employment that that can pose problems in getting the case resolved.

CHAIR HOKAMA: Okay, thank you for sharing your thoughts on that. Mr. Couch.

VICE-CHAIR COUCH: Thank you Mr. Chair. And I appreciate the Department's comments as far as making it more broad. I think in this case we actually are specifically talking about real estate agents. I don't think there's any other industry that really would matter except for possibly real estate appraisers, but I would rather have three real estate appraisers on there, you know. But as far as real estate agents or brokers, I think that's, we're trying to be that specific in that case. I agree with Mr. Teruya about more than, I would say more than one person from any, the same company in because it's only a five-member board --

CHAIR HOKAMA: Uh-huh.

VICE-CHAIR COUCH: --if we can throw something in there on the number of people in the company. But as far as real estate agents and brokers, I think that is our specific target. I don't know of any other industry that we would want to exclude unless the Chair or the Department would think of any other industry.

CHAIR HOKAMA: Okay. Ms. Cochran, any thoughts?

COUNCILMEMBER COCHRAN: I guess Department would rather keep it broader, too, I guess, is that the target I guess, yeah, agency or what have you, company.

CHAIR HOKAMA: Well, your Chair's intent was more concerned about how a real estate agent or broker can impact the value during the appeal process for personal benefits or company benefits. I can appreciate the Administration's suggestion. It's a good suggestion, but on the other hand, mine was more specific guidance, and at the end of the day it's up to the Council who they're gonna approve to sit on this Tax Review Board. At the end of the day, it's a Council's decision and we'll have all that pertinent information whether three or five work for the same employer, none of them work for the same employer. But it's something that I think all of us take very seriously on who we approve for nominations, and our current practice of at least bringing them forward to get a face with the name. So I think we're being very cognizant of our responsibilities and our duties that, you know. I would tend to agree with Mr. Couch right now.

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I would rather be more specific regarding this board of consideration. Ms. Crivello any thoughts?

COUNCILMEMBER CRIVELLO: Not really, Chair. I'll go in accordance with your recommendation.

CHAIR HOKAMA: Okay, thank you. Mr. Victorino any comments, questions?

COUNCILMEMBER VICTORINO: Well, I think I would agree with you on the real estate. That's what we had discussed and I think that's what we had agreed upon. In limiting anybody else like "no more than two members of any company" or "no more than one member from any company," if that's what somebody wants to add in there, I have no problem with that either. But as far as the realtors were concerned, I believe that's what our discussion was because they had the most impact on something of this nature since it's a five person board, yeah.

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER VICTORINO: So I have no problems in how you're presenting this, Mr. Chair. If that language wants to be added or you wanna substitute with the Administration's language, I'm fine with that also, sir. Thank you.

CHAIR HOKAMA: Okay. Thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you Chair. I was just trying to find the responses from the Board of Ethics to your initial question.

CHAIR HOKAMA: I know we got that response.

MS. NAKATA: Mr. Chair, it's dated August 26, 2014.

CHAIR HOKAMA: August 26<sup>th</sup>, Mr. Guzman. At least I can say on the Committee's behalf, we did request before a situation came up --

COUNCILMEMBER VICTORINO: Occurred, yeah.

CHAIR HOKAMA: --to the board. And it's interesting the board's response is "it's your kuleana."

COUNCILMEMBER GUZMAN: Yeah, I see that ...*(laughter)*...

CHAIR HOKAMA: Okay.

COUNCILMEMBER GUZMAN: Interesting.

CHAIR HOKAMA: So at least we can say we made the attempt to reach out--

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COUNCILMEMBER GUZMAN: Right.

CHAIR HOKAMA: --and get additional input before we made our decision.

COUNCILMEMBER GUZMAN: I guess my question would be then to Corporation Counsel. In terms of singling out a specific profession, would this be discriminatory?

CHAIR HOKAMA: Mr. Ueoka, please.

MR. UEOKA: I think this language is fine.

COUNCILMEMBER GUZMAN: Okay, thank you.

CHAIR HOKAMA: Okay, thank you. Mr. White?

COUNCILMEMBER WHITE: Thank you Chair. I'm comfortable with the specificity that we're presenting regarding the real estate agents and brokers. And I don't feel we need to add the language regarding no more than one person from any one company 'cause I think that is, as you inferred, that that's part of our review process when naming people to any board or commission. This one in particular is more problematic because of the example that Mr. Teruya brought up, so I'm comfortable with the way it's worded currently and don't feel that there are any amendments necessary. Thank you.

CHAIR HOKAMA: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. I concur with your recommendation.  
Thank you

CHAIR HOKAMA: Okay, thank you very much. Mr. Walker, is there any additional comments you or Mr. Teruya would like to share on the matter, please?

MR. WALKER: No further comment, Chair.

CHAIR HOKAMA: Okay, thank you. Mr. Teruya, any other comments?

MR. TERUYA: No, Chair.

CHAIR HOKAMA: Okay, thank you. Members any questions for your Chair? If not, the Chair will entertain a motion to recommend to Council passage on first reading and order to print...the bill for an ordinance that is attached to communication dated August 28<sup>th</sup>.

MS. NAKATA: Excuse me, Mr. Chair.

CHAIR HOKAMA: Yes?

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MS. NAKATA: September 2<sup>nd</sup> is Corporation Counsel's response.

CHAIR HOKAMA: Excuse me. Thank you very much. That's why we have you, Carla ...*(laughter)*...

CHAIR HOKAMA: September 2, 2014, "A BILL FOR AN ORDINANCE..." under the title "AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO THE COMPOSITION OF THE REAL PROPERTY TAX REVIEW BOARD"; and filing of all appropriate communications. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to. . .I so move whatever you said.

COUNCILMEMBER BAISA: Second.

COUNCIL MEMBERS: . . .*(laughter)* . . .

CHAIR HOKAMA: Thank you. We have a motion made by Mr. Couch, seconded by Ms. Baisa to move the proposed bill forward to Council. Members, questions, discussion on the motion before you? Yes, Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair, and I know we talked about it last time, but I just, if you could refresh our memory on the reason for deleting the last section there "A Chairman shall be elected annually..." all the way through "Each member may receive and be paid..." Was that because that's handled somewhere else in the Charter?

CHAIR HOKAMA: No, I know we met with Mr. Kushi on this. Ms. Nakata, can you help refresh the Committee's memory, please?

MS. NAKATA: I'm sorry, which specific section are you referring to?

CHAIR HOKAMA: The last component. Okay, by normal practice of the existing board is they rotate their officer-ship, yeah. The one concern I remember that we had discussion is when you look on the last page of the proposed bill under Section 2. I believe it is the second to the last sentence that we had some talk about. Each member may receive and be paid out of the treasury compensation for services. Yeah. But my understanding is already we have by various statutes and rules how we deal with per diems and everything else for appropriate official business. So part of this revision and deletion is in complete...coordination with Corporation Counsel.

VICE-CHAIR COUCH: Okay.

MS. NAKATA: Mr. Chair, Staff would note with respect to the election of the Chair and Vice-Chair, I believe our Deputy Corporation Counsel Joesting advised that that is covered by their administrative rules for the board.

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VICE-CHAIR COUCH: Okay.

CHAIR HOKAMA: Okay, thank you for your question. Any other questions, Members? If not, all in favor of the motion, please say "aye."

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Oppose say "no". Motion passes with seven ayes, two excused, Mr. Victorino and Mr. Carroll. Thank you very much, Mr. Walker and Mr. Teruya.

**VOTE:        AYES:        Chair Hokama, Vice-Chair Couch, and Councilmembers Baisa, Cochran, Crivello, Guzman, and White.**

**NOES:        None.**

**EXC.:        Councilmembers Carroll and Victorino.**

**ABSENT:     None.**

**ABSTAIN:    None.**

**MOTION CARRIED**

**ACTION:     FIRST READING of revised bill and FILING of communication by C.R.**

**ITEM PIA-4(1) 2015 MAUI COUNTY LEGISLATIVE PACKAGE (CC 13-44)**

CHAIR HOKAMA: I direct you now to item 4(1) under the heading of 2015 MAUI COUNTY LEGISLATIVE PACKAGE. Okay we are in receipt of a communication, from Chair Baisa, 13-44, relating to matters pertaining to the Maui County Legislative Package. I have posted this matter for us to prepare our consideration of proposals for the 2015 State Legislative Session. I have distributed for your information, Members, an outline with a suggested timeline, and according to our current amended State Constitution, the Legislature shall convene on the third Wednesday in January. Therefore it is January 21 of 2015. And as been our practice, we take considerations and adopt County considerations prior to the session beginning. Therefore, I'm recommending that this Committee receive proposals from you by October 1<sup>st</sup> so that your Chair can post and have appropriate meetings for public information and disclosure, as well as what the Council may consider for its final package of proposals for the State. And I would like that to be done by December 5<sup>th</sup> meeting of this year. So I am now open to comments, questions with this. Mr. Couch? Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair. I do have one concern and --

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CHAIR HOKAMA: Yes sir.

COUNCILMEMBER VICTORINO: --Ms. Baisa and I have discussed this and I'm not sure how we're gonna address this. But if you're aware that that is the same time frame we have our NACo board meeting here on Maui for which I think you and I are both a part of, and I think maybe others would like to be a part of. The other challenge, you know, and having that, I think, what is that, the 5<sup>th</sup>, the 3<sup>rd</sup>, what is, what is the date? You're the ...*(laughter)*... you're in charge of that.

CHAIR HOKAMA: The 5<sup>th</sup> is Tuesday. Yeah, I believe it's Tuesday.

COUNCILMEMBER VICTORINO: I just wanted to...

CHAIR HOKAMA: Well that's why I say this is your Chair's proposal, yeah --

COUNCILMEMBER VICTORINO: Yeah. Yeah.

CHAIR HOKAMA: --and that's why, you know, we're gonna have this discussion, and I'm happy you're bringing things out because you know Chair Baisa makes everybody well aware in advance --

COUNCILMEMBER VICTORINO: That's right.

CHAIR HOKAMA: --a year in advance, of her travel plans and so I'm trying to work with her schedule ...*(laughter)*... 'cause she's being very gracious in giving me one year's notice. I mean she doesn't hide it. I know she's gonna --

COUNCILMEMBER BAISA: Leave that night.

CHAIR HOKAMA: --leave so I wanna make sure, I'm trying to make sure that we can have Ms. Baisa's participation 'cause she's very active in this area. So I'd like to, you know, try and accommodate her need 'cause I would like her to be at the meeting, all of us to be at the same meeting so...

COUNCILMEMBER VICTORINO: And that's, and I'm well aware of that, but what I'm concerned of is when, you know, will we be done by then?

CHAIR HOKAMA: If it can be done before then, Mr. Victorino, that would be...

COUNCILMEMBER VICTORINO: No, no, no I agree. I agree. I'm talking about the NACo board meeting 'cause I would hate to miss that opportunity, just like Ms. Baisa, to be here to address some of these concerns and as the HSAC representative. Also, I wanna make sure we get down the things that I think is so important for this County, you know. HSAC is a different issue, but still we all work in the same realm yeah, and I wanna make sure that that's completed and we

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have it in enough time to make sure when we go down this year that we're prepared as a unit and as our County to lobby. Because we're gonna have changes down there and so we need to be much more prepared this year.

CHAIR HOKAMA: Right, right. No, I understand yeah.

COUNCILMEMBER VICTORINO: So that's my concern about the NACo board meeting and the final scheduling of the various seminars, events and tours, remember that you had been working on. So if we can do it before December 5<sup>th</sup>, I'd be more than happy to bring it forward, you know.

CHAIR HOKAMA: Okay.

COUNCILMEMBER VICTORINO: If not, then you know we'll see what happens but I can...

CHAIR HOKAMA: No, but I appreciate you bringing that up, that factor 'cause it will make a difference on how we make the final...and that's why today your Chair is giving you your, his proposed timeline.

COUNCILMEMBER VICTORINO: Okay.

CHAIR HOKAMA: And that's why I'm very happy you're giving feedback, Mr. Victorino, 'cause we gonna make adjustments. Mr. Guzman, any thoughts you wanna share?

COUNCILMEMBER GUZMAN: None, none at this time. Thank you Chair.

CHAIR HOKAMA: Mr. White, any thoughts or comments?

COUNCILMEMBER WHITE: Not at this time. Thank you, Chair.

CHAIR HOKAMA: Okay. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. I really appreciate the consideration. This year we'll be leaving a day later than we normally do so that I'll be here for that meeting --

CHAIR HOKAMA: Okay.

COUNCILMEMBER BAISA: --and also for the festivities with the NACo board here.

CHAIR HOKAMA: Good.

COUNCILMEMBER BAISA: I really wanna here that week. So I'm really appreciative of us trying to get this through. It's really important.

CHAIR HOKAMA: It is.

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COUNCILMEMBER BAISA: And I appreciate your help. Thank you.

CHAIR HOKAMA: Thank you. Ms. Cochran, anything?

COUNCILMEMBER COCHRAN: No comments at this time.

CHAIR HOKAMA: Okay. Ms. Crivello?

COUNCILMEMBER CRIVELLO: No comments. Thank you, Chair.

CHAIR HOKAMA: Okay. If there's no further questions, then again, I would just ask think about what you would like to have submitted. You can resubmit something we've submitted in the past. You can submit something we've never submitted in the past, something about what you would like us to consider. And myself and Staff will be available to work with you to make sure that your issue can have its fair opportunity before the Committee. Okay, with that, Members, if no objection, I will defer Item 4(1) MAUI COUNTY LEGISLATIVE PACKAGE 2015.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBER VOICE NO OBJECTIONS.

CHAIR HOKAMA: Okay, this item is deferred.

**ACTION: DEFER pending further discussion.**

**ITEM PIA-1(42)      LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF MAUI ELECTRIC COMPANY, LTD.; CLAIM 2014-1138-16) (CC 13-41)**

CHAIR HOKAMA: Final item for the day, Members. I left the fun stuff for the end. Under LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF MAUI ELECTRIC COMPANY, LTD.; CLAIM 2014-1138-16). This is under Policy Item 1(42). We are in receipt of correspondence dated August 18<sup>th</sup>, from Corporation Counsel, with a proposed resolution to authorize settlement of a claim...a claim with Maui Electric Company. It is for a specific amount that we have posted, \$11,363.44, as well as a copy of the claim. This is in regards to our Department of Public Works, Highway Division, regarding incident dated June 17<sup>th</sup>, 2013. So, Members, at this time we have Ms. Lutey from Corporation Counsel who'll give us any opening comments, and if need be she will request executive session, if need be. Ms. Lutey.

MS. LUTEY: Thank you. Good morning.

CHAIR HOKAMA: Good morning.

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MS. LUTEY: I believe this is something we should be able to handle in open session unless this body wants to discuss anything involving personnel or employee records. Mr. Goode will be back. He was here earlier; we spoke briefly about this. The basic facts are that on June 17, 2013, one of our County crews was in Kihei at the intersection of Liloa and Waipuilani Streets. They were there to install new guardrails, and unfortunately, while they were digging, they hit and damaged Maui Electric Company's concrete jack and pipe, which tripped the power breaker and caused \$11,363...\$11,363.44 in cost to Maui Electric to repair this damage. So I am asking for authorization from this body to reimburse Maui Electric for that amount.

CHAIR HOKAMA: Okay, thank you, Ms. Lutey. Mr. Goode, Director Goode, thank you for being back here. Any comments in open session you wish to give regarding your Highways Division's situation with this settlement?

MR. GOODE: Sure, thanks, Chair, for the opportunity to speak. At least in open session, I'd like to say that actions have been taken to prevent these types of accidents in the future, and certain corrections were made and then if the body decides we need to go into executive session, I can get into more details relating to liability and personnel actions. But we have taken very specific actions to try to ensure this type of thing doesn't happen again.

CHAIR HOKAMA: Okay, thank you very much, Director, for those comments. Mr. Couch, questions for either Ms. Lutey or Director Goode?

VICE-CHAIR COUCH: Not at this time. Thank you.

CHAIR HOKAMA: Okay. Ms. Cochran, our subject matter Chair.

COUNCILMEMBER COCHRAN: No, not at this time, Chair.

CHAIR HOKAMA: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Just procedural with the Public Works, Chair, I wanna ask something. Is it the norm, normal practice that the workers would, you know, test locate underground utilities before doing construction and was it done at this time?

CHAIR HOKAMA: Director?

MR. GOODE: Can I answer that?

MS. LUTEY: ...*(inaudible)*...

CHAIR HOKAMA: Director?

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MR. GOODE: Thanks Chair. Make sure I consult with Counsel here to make sure we're not discussing something that probably should be in executive session. But it is normal practice to have, to call the One Call Center which between Hawaiian Tel, Maui Electric, Gas Company, even Water and Sewer would come and mark those types of underground utilities in advance of work.

COUNCILMEMBER CRIVELLO: So that was done and it was so marked?

MR. GOODE: It was not done --

COUNCILMEMBER CRIVELLO: Oh.

MR. GOODE: --in this case.

COUNCILMEMBER CRIVELLO. Thank you.

CHAIR HOKAMA: Okay, thank you. Mr. Victorino, any questions?

COUNCILMEMBER VICTORINO. No, not really. I think the comments that the Director has put forward, I think, to prevent this from happening again, I think, is very important. It's unfortunate that the, a lot of areas have these unmarked easements and lines, and sometimes they are missed not only by the Department but by contractors also. And I've heard of incidents like that, so you know, I hope that in the future we'll be better prepared, and I think I trust Mr. Goode and the Department will try to avoid this from happening in the future. Thank you, Mr. Chair.

CHAIR HOKAMA: Okay, thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Nothing further. Thank you Chair.

CHAIR HOKAMA: Mr. White?

COUNCILMEMBER WHITE: Nothing further.

CHAIR HOKAMA: Ms. Baisa?

COUNCILMEMBER BAISA: No thank you.

CHAIR HOKAMA: Okay, well I'm sure we just updated our as-built plans ...*(laughter)*... and I can appreciate that 'cause on Lanai there's a lot of things, I would say, most part of the County, the old plantation companies have a lot of as-built plans that we may not be aware of regarding underground pipes and conduits and whatnots, so. Your Chair is not going to request executive session. I read the claim in its entirety. I appreciate Director Goode's already taking forward administrative steps to have this even done better in the future and avoid any additional opportunities of this type of claims so I'm happy of his efforts. I know Ms. Lutey has done a thorough job in the review of this case, so your Chair is gonna recommend that we send to

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Council the proposed resolution entitled “Authorizing Settlement of Claim 2014-1138-16 of Maui Electric Company, Ltd.” There’s no filing, right?

MS. NAKATA: No, Mr. Chair, but there is a revised resolution to correct a spelling error in the name of the road in which the incident occurred.

CHAIR HOKAMA: Okay, Members, the Chair will rule that it is a nonsubstantive change; therefore, the, with no objections, to also allow staff to work with Corporation Counsel to make those nonsubstantive adjustments.

COUNCIL MEMBERS: No objections.

MS. NAKATA: I’m sorry Chair, it was incorporated in the revised reso that was posted today, September 2<sup>nd</sup>.

CHAIR HOKAMA: Okay, okay. That will make the appropriate adjustments. So I have a motion, I’m open to a motion. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to adopt the proposed resolution “Authorizing Settlement of Claim No. 2014-1138-16 of Maui Electric Company, Ltd.”

COUNCILMEMBER BAISA: Mr. Chair, I second the motion.

CHAIR HOKAMA: Thank you. I have a motion made by Mr. Couch, seconded by Ms. Baisa. Members, discussion of the matter? Having none, all in favor of the motion, please say “aye.”

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say “no”. Motion passes with all nine Members in the affirmative.

**VOTE:        AYES:        Chair Hokama, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Crivello, Guzman, Victorino, and White.**

**NOES:        None.**

**EXC.:        None.**

**ABSENT:     None.**

**ABSTAIN:    None.**

**MOTION CARRIED**

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**ACTION: ADOPTION of revised resolution by C.R.**

CHAIR HOKAMA: Thank you very much, Director, good day. Thank you, Ms. Lutey. Members, we have completed the Committee's requirements so thank you for your presence. This meeting is adjourned. . . .(gavel). . .

**ADJOURN:** 10:02 a.m.

APPROVED:

  
\_\_\_\_\_  
G. RIKI HOKAMA, Chair  
Policy and Intergovernmental Affairs Committee

pia:min:140909

Transcribed by: Maribel Brown

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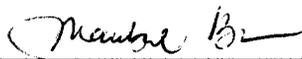
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CERTIFICATE

I, Maribel Brown, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 6<sup>th</sup> day of October, 2014, in Kahului, Hawaii.



Maribel Brown